

# Agenda

## Item #3





STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

## **MEMORANDUM**

**TO:** Members of the Commission

**DATE:** September 21, 2010

**SUBJECT:** Audit Reports Transmittal

Attached are recently completed audit reports related to Commission audits of publicly funded candidates who competed in the June 8, 2010 primary. As you know, all gubernatorial candidates funded under the provisions of the Maine Clean Election Act (MCEA) are subject to audits of their contributions and expenditures as reported in periodic financial reports submitted to the Commission. In addition, the financial records of 20 percent of MCEA-funded legislative candidates – chosen on a statistically random basis – are also audited. The candidates listed below were all selected utilizing the above procedure.

I am forwarding audit reports for the following candidates:

- Senator S. Peter Mills, Republican candidate for Governor.
- Peter M. Sheff, Republican Candidate, District 45, House of Representatives.
- Robert K. Emrich, Republican Candidate, District 25, House of Representatives.
- Charles E. Bragdon, Green Independent Candidate, District 120, House of Representatives.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vincent W. Dinan".

Vincent W. Dinan  
Commission Auditor

Attachments





STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
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September 1, 2010

**Audit Report No. 2010 – GV001**

**Candidate: Senator S. Peter Mills  
Gubernatorial Candidate – 2010 Republican Primary**

**Background**

Senator S. Peter Mills was a candidate for Governor of the State of Maine in the 2010 Republican primary election. Sen. Mills' campaign was not successful, and his final campaign finance report was filed with the Commission on Governmental Ethics and Election Practices (Commission) on July 20, 2010.

Sen. Mills was certified by the Commission as a Maine Clean Election Act (MCEA) candidate on March 26, 2010. MCEA candidates are required under the Act to submit reports of the following activities: contributions made to their campaigns; campaign expenditures; outstanding campaign debt; and acquisitions and subsequent disposition of campaign equipment. Such reports are made for specified periods during the election cycle.

**Audit Scope**

Examination of selected contributions and expenditures transactions occurring during the following periods:

- January, 2010 Pre-Election Semiannual - (11/5/2008 through 12/31/2009)
- Seed Money - (1/1/2010 through 3/25/2010)
- 42 Day Pre-Primary - (3/26/2010 through 4/20/2010)
- Eleven Day Pre-Primary - (4/21/2010 through 5/25/2010)
- 42 Day Post-Primary - (5/26/2010 through 7/13/2010)

The audit's focus was on activities recorded in the campaign accounting records and reported to the Commission, to determine that the identified transactions (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditor and Commission staff examined documentation supporting 94.6 percent of the \$45,164 in contributions and 72.7 percent of the aggregate total expenditures of \$644,426 reported by Sen. Mills. In general, we found that records of campaign disbursements and related documentation were well maintained by Sen. Mills and his treasurer.

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

### Audit Findings and Recommendations

*Finding No. 1* - The Mills campaign employed one salaried campaign manager and five salaried campaign workers during the primary election cycle. The compensation paid to each of these individuals exceeded \$500 in the aggregate. The campaign manager's assigned tasks and related compensation were set forth in a document that appeared to be a contract; however, the document was unsigned and undated. With respect to the other five salaried workers, the campaign did not create any contract describing the workers' duties and compensation. In addition, the workers did not submit timesheets, invoices, or similar documents for the services they performed for the campaign. Sen. Mills prepared job descriptions for each of the workers after the audit was commenced in order to meet the requirements of the audit. Salary payments to campaign workers were recorded in the campaign's payroll system.

*Criteria:* 21-A M.R.S.A. § 1125(12-A) (D) requires MCEA campaigns to keep "For any services provided to the campaign by a vendor for which the candidate paid \$500 or more for the election cycle, invoices, timesheets, or other documentation specifying in detail the services the vendor provided, the amount paid and the basis for the compensation paid by the campaign." (The requirement was amended slightly during the 2010 legislative session, but the amendment took effect after the June 8 primary election.) The Commission proposed this new documentation requirement in 2009 because of an increase in candidates spending more than \$500 in MCEA funds for staff or campaign consultants.

*Recommendation:* The Commission staff believes that the Mills campaign's documentation of services performed by the campaign workers would have been stronger if it had been created at the time the workers were hired or when they rendered services. Nevertheless, the Commission staff does not recommend any finding that the Mills campaign violated 21-A M.R.S.A. § 1125(12-A) (D) because the requirement is new and, arguably, needs better definition.

Later this year, the Commission staff intends to propose statutory amendments to the Commission for submission to the Legislature for the 2011 legislative session. We intend to include for your consideration a statutory amendment to 21-A M.R.S.A. § 1125(12-A) (D) requiring that the documentation of work be created contemporaneously at the time of contracting or performance of services.

### Auditor's Note

Audits of gubernatorial candidates in 2006 and now in 2010 have disclosed the common practice among candidates of pre-paying significant amounts of money to place television and radio advertising. This activity appears to be driven by media schedules and by broadcasters' demands for payment "up front". In the case of the Mills campaign, the candidate made pre-payments of \$100,000 (3/31/2010) and \$160,000 (5/11/2010) to their media buyer to purchase and place political advertising.

Currently, neither the Maine Clean Election Act nor the Commission's implementing rules require contractual relationships between candidates and their media services suppliers for the purpose of establishing controls over disbursement of MCEA funds and related responsibilities. According to Sen. Mills, he had an oral contract with his media buyer, and, in addition, agreements between the parties were set forth in the volume of e-mails and other communications that occurred throughout the campaign.

We believe there can be a high degree of risk in disbursing large amounts of money to vendors without having formal contracts in place that defines the roles and responsibilities of each of the parties. Organizations in both government and the private sector all routinely contract formally for the purchase of goods and services, and we believe it to be unreasonable that MCEA funding recipients should be held to a lower level of accountability.

We therefore recommend that the Commission consider establishing formal contracting procedures covering the disbursement of pre-paid purchases for media and other expenditures above a set amount.

#### Candidate's Comments on the Audit Report

*In a statewide campaign, the largest single expenditure is for TV and radio. In fact, we set up our budget to set aside as much money as possible for this purpose after everything else is paid for. Many other campaign functions can be done by volunteers or they are highly optional, but media is one big category that must be paid for in cash and is essential to success.*

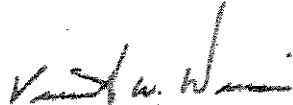
*Media brokers will not book deals and stations will not reserve time without the money in hand. Between the time of payment and when the ad goes on the air, the stations can change the schedule or bump an ad altogether. In the end, however, the money is accounted for. It's just that the candidate often does not know exactly what time slots are being bought when making the payment.*

*If the Commission feels that more specific rules are necessary for better controlling or managing media expenditures, I recommend that you get the advice of media brokers and the Maine Association of Broadcasters in drafting any such rules.*

*It is common practice for a broker to receive a 15% commission in the form of a discount from each broadcaster. I don't know what the qualifications are for someone to become a broker recognized by the stations, but it might be worth asking who such people are who are permitted to hold themselves out as brokers.*

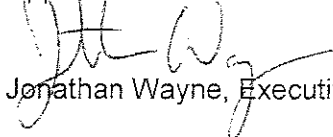
*Peter Mills*

Respectfully Submitted,



Vincent W. Dinan, Auditor

Approved:



Jonathan Wayne, Executive Director







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September 1, 2010

**Audit Report No. 2010-HR001**

**Candidate: Peter M. Sheff  
House District 45**

**Background**

Peter M. Sheff was a candidate for the Maine House of Representatives, District 45, in the 2010 Republican primary election. Mr. Sheff was certified for Maine Clean Election Act (MCEA) funding on April 8, 2010. Under the terms of the Act, MCEA candidates are required to submit reports of contributions received, campaign expenditures, equipment purchases and dispositions, and outstanding campaign debt for specified periods during the election cycle.

**Audit Scope**

The auditor examined selected contributions made to the campaign, and certain expenditures made during the following reporting periods:

- Seed Money (11/5/2008 through 4/8/2010)
- Eleven Day Pre-Primary (4/9/2010 through 5/25/2010)
- 42 Day Post-Primary (Mr. Sheff reported no activity during this period)

The transactions examined were recorded in the campaign's accounting records and were reported to the Commission. The purpose of the audit was to determine that

- Seed Money contributions were made from the personal resources of the contributors, and were made in amounts within the limits imposed by the Act.
- Campaign expenditures (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable

disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditor examined documentation supporting 40 percent of the Seed Money contributions received by the candidate, and 63 percent of total campaign expenditures.

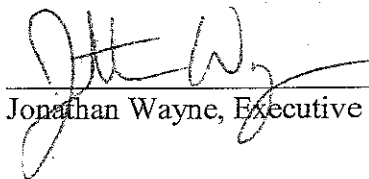
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Commission for information and file.



Vincent W. Dinan, Auditor



Jonathan Wayne, Executive Director



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**September 16, 2010**

**Audit Report No. 2010-HR002**

**Candidate: Robert K. Emrich  
House District 25**

**Background**

Robert K. Emrich was a candidate for the Maine House of Representatives, District 25, in the 2010 Republican primary election. Mr. Emrich was certified for Maine Clean Election Act (MCEA) funding on March 19, 2010. Under the terms of the Act, MCEA candidates are required to submit reports of contributions received, campaign expenditures, equipment purchases and dispositions, and outstanding campaign debt for specified periods during the election cycle.

**Audit Scope**

The Commission staff examined documentation supporting contributions made to the campaign, and the auditor reviewed documentation of selected expenditures made during the following reporting periods:

- Seed Money (11/5/2008 through 3/19/2010)
- Eleven Day Pre-Primary (3/20/2010 through 5/25/2010)
- 42 Day Post-Primary (5/26/2010 through 7/13/2010).

The transactions examined were recorded in the campaign's accounting records and were reported to the Commission. The purpose of the audit was to determine that

- Seed Money contributions were made from the personal resources of the contributors, and were made in amounts within the limits imposed by the Act.
- Campaign expenditures (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable

disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

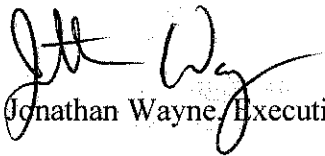
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Commission for information and file.



Vincent W. Dinan, Auditor



Jonathan Wayne, Executive Director



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**Audit Report No. 2010-HR003**

**Candidate: Charles E. Bragdon  
House District 120**

**Background**

Charles E. Bragdon was a candidate for the Maine House of Representatives, District 120, in the 2010 Green Independent primary election. Mr. Bragdon was certified for Maine Clean Election Act (MCEA) funding on April 20, 2010. Under the terms of the Act, MCEA candidates are required to submit reports of contributions received, campaign expenditures, equipment purchases and dispositions, and outstanding campaign debt for specified periods during the election cycle.

**Audit Scope**

The Commission staff examined documentation supporting contributions made to the campaign, and the auditor reviewed documentation of selected expenditures made during the following reporting periods:

- Seed Money (11/5/2008 through 4/20/2010)
- Eleven Day Pre-Primary (4/21/2010 through 5/25/2010)
- 42 Day Post-Primary (5/26/2010 through 7/13/2010).

The transactions examined were recorded in the campaign's accounting records and were reported to the Commission. The purpose of the audit was to determine that

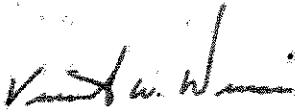
- Seed Money contributions were made from the personal resources of the contributors, and were made in amounts within the limits imposed by the Act.
- Campaign expenditures (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable

disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

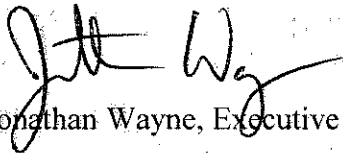
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Commission for information and file.



Vincent W. Dinan, Auditor



Jonathan Wayne, Executive Director